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Review Conference on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks
New York, 24-28 May 2010

Compilation of the recommendations adopted at the Review Conference in 2006 and information on the extent to which the recommendations have been implemented by States and regional fisheries management organizations and arrangements

Note by the Secretariat

In paragraph 32 of its resolution 63/112, the General Assembly requested the Secretary-General to submit to the resumed Review Conference an updated comprehensive report, prepared in cooperation with the Food and Agriculture Organization of the United Nations (FAO), to assist the Conference in discharging its mandate under article 36, paragraph 2, of the Agreement. As referenced by the Chairperson of the ninth round of informal consultations of States Parties to the Agreement for the implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, the Secretariat has prepared the attached compilation (see annex) in order to assist delegations in considering the report of the Secretary-General to the resumed Review Conference (A/CONF.210/2010/1). The compilation presents the recommendations adopted at the Review Conference in 2006 (A/CONF.210/2006/15, annex), in thematic form, with the corresponding information from States, regional fisheries management organizations and arrangements, and FAO, as contained in the report of the Secretary-General (A/CONF.210/2010/1), on the extent to which the recommendations have been implemented.

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Annex

Compilation of the recommendations adopted at the Review Conference in 2006 and information on the extent to which the recommendations have been implemented by States and regional fisheries management organizations and arrangements

I. Conservation and management of stocks

A. Recommendations for actions to be taken by States individually and collectively through regional fisheries management organizations

Adopt and implement conservation and management measures

Strengthen their commitment to adopt and fully implement conservation and management measures for straddling fish stocks and highly migratory fish stocks, including stocks that are currently unregulated, in accordance with the best available scientific information on the status of such stocks and the provisions of the Agreement with respect to the precautionary approach (recommendation 18 (a))[a]

Since the Review Conference in 2006, States and regional fisheries management organizations have adopted and implemented numerous conservation and management measures in respect of straddling fish stocks and highly migratory fish stocks, including interim measures for areas where regional fisheries management organizations or arrangements had yet to be established. Evaluation of the effectiveness of these conservation and management measures presents certain challenges owing to the insufficiency of scientific and other relevant information (paragraph 185).[b]

Establish new regional fisheries management organizations and arrangements

Where needed, establish new regional fisheries management organizations or arrangements for the conservation and management of straddling fish stocks, highly migratory fish stocks and high-seas discrete stocks and agree on interim measures until such arrangements are established (recommendation 18 (c))

Considerable attention has been devoted to the establishment of new regional fisheries management organizations and arrangements in the Pacific Ocean region. Initiatives to establish two such organizations with a mandate over the high seas were in advanced stages, and States have agreed on relatively robust interim measures that incorporate precautionary and ecosystem approaches. In the South Pacific Ocean, the parties to the Nauru Agreement also agreed in 2009 to establish an office and to adopt further minimum terms and conditions of fisheries access for

[a] Text in bold type corresponds to paragraphs in the outcome of the Review Conference (A/CONF.210/2006/15, annex).

[b] Text in plain type corresponds to paragraphs in the report of the Secretary-General to the resumed Review Conference (A/CONF.210/2010/1).

foreign fishing vessels. The measures are applicable to highly migratory fish stocks and may relate to high seas fishing (paragraph 186).

Apply precautionary and ecosystem approaches

Strengthen their commitment to adopt and fully implement conservation and management measures for straddling fish stocks and highly migratory fish stocks, including stocks that are currently unregulated, in accordance with the best available scientific information on the status of such stocks and the provisions of the Agreement with respect to the precautionary approach (recommendation 18 (a))

Enhance understanding of ecosystem approaches and commit themselves to incorporating ecosystem considerations in fisheries management, including actions to conserve associated and dependent species and to protect habitats of specific concern, taking into account existing FAO guidelines, and request FAO to continue its work on the subject, as appropriate (recommendation 18 (d))

States and regional fisheries management organizations reported substantial activity in the implementation of the precautionary and ecosystem approaches. Some States reported both long-standing and recent measures to protect habitats of specific concern in areas under national jurisdiction, and a number of regional fisheries management organizations have taken action to identify vulnerable marine ecosystems. Less information was received from States on action to conserve associated and dependent species. Most regional fisheries management organizations reported actions to endorse or adopt measures relating to sharks, seabirds and turtles and other ecologically related species, as recommended in FAO international plans of action and guidelines or identified in risk assessment studies by relevant regional fisheries management organizations (paragraph 187).

FAO supported implementation of the recommendations adopted by the Review Conference through its work on the ecosystem approach to fisheries (paragraph 194).

Achieve compatibility of measures

Take measures to improve cooperation between flag States whose vessels fish on the high seas and coastal States so as to ensure the achievement of compatibility of measures for the high seas and for those areas under national jurisdiction with respect to straddling fish stocks and highly migratory fish stocks in accordance with article 7 of the Agreement (recommendation 18 (b))

Several regional fisheries management organizations referred to provisions in their respective conventions on achieving compatible measures for the high seas and for areas under national jurisdiction. States generally worked through regional fisheries management organizations to achieve compatible measures, underlining the importance of sharing data and cooperation among relevant organizations to adopt compatible processes. It was not possible to assess the extent to which compatible measures had been achieved in accordance with article 7 of the Agreement (paragraph 188).

Develop area-based management tools

Develop management tools, including closed areas, marine protected areas and marine reserves and criteria for their implementation, to effectively conserve and manage straddling fish stocks, highly migratory fish stocks and high seas discrete stocks and protect habitats, marine biodiversity and vulnerable marine ecosystems, on a case-by-case basis in accordance with the best available scientific information, the precautionary approach and international law (recommendation 18 (e))

Several States reported on the use or development of area-based management tools in areas under national jurisdiction. Some information did not relate directly to straddling or highly migratory fish stocks, but merely reflected support by States for such tools. Regional fisheries management organizations reported on the adoption of a wide range of area-based management tools. Many responses from States and regional fisheries management organizations did not directly address biodiversity (paragraph 189).

Manage fishing capacity and eliminate subsidies

Commit themselves to urgently reducing the capacity of the world's fishing fleets to levels commensurate with the sustainability of fish stocks, through the establishment of target levels and plans or other appropriate mechanisms for ongoing capacity assessment, while avoiding the transfer of fishing capacity to other fisheries or areas, in a manner that undermines the sustainability of fish stocks, including, inter alia, those areas where fish stocks are overexploited or in a depleted condition, and recognizing in this context the legitimate rights of developing States to develop their fisheries for straddling fish stocks and highly migratory fish stocks consistent with article 25 of the Agreement, article 5 of the Code of Conduct, and paragraph 10 of the International Plan of Action for the Management of Fishing Capacity (recommendation 18 (f))

A significant number of States reported a reduction in excess capacity of their fishing fleets, including through market-based systems. Many of the initiatives predated 2006, but appeared to have continuing effectiveness. Many States with large fishing fleets did not provide information in this regard, and it was not possible to assess the urgency with which the issue had been addressed. Regional fisheries management organizations had devoted considerable attention to the reduction of excess fishing capacity, including at the joint meetings of tuna bodies, and had taken relevant measures, such as the restriction of fishing opportunities (paragraph 190).

Eliminate subsidies that contribute to illegal, unregulated and unreported fishing, overfishing and overcapacity, while completing the efforts undertaken through the World Trade Organization in accordance with the Doha Declaration to clarify and improve its disciplines on fisheries subsidies (recommendation 18 (g))

The question of subsidies was addressed to a considerably lesser extent and in a less tangible manner, with a few States reporting on long-standing policies that prohibited such subsidies (paragraph 190).

Address lost or abandoned fishing gear and discards

Enhance efforts to address and mitigate the incidence and impacts of all kinds of lost or abandoned gear (so-called ghost fishing), establish mechanisms for the regular retrieval of derelict gear and adopt mechanisms to monitor and reduce discards (recommendation 18 (h))

Many States identified work in progress to address and mitigate the incidence and impacts of lost or abandoned gear. Mechanisms to monitor and reduce discards were being developed, but establishment of mechanisms for the regular retrieval of derelict gear was not addressed and remained outstanding. Similarly, only a few regional fisheries management organizations had taken action in this regard and others simply referred to relevant provisions in their conventions (paragraph 191).

Collect data and share information

Provide required catch and effort data, and fishery-related information, in a complete, accurate and timely way and to develop, where they do not exist, processes to strengthen data collection and reporting by members of regional fisheries management organizations, including through regular audits of member compliance with such obligations, and when such obligations are not met, require the member concerned to rectify the problem, including through the preparation of plans of action with timelines (recommendation 18 (i))

Many States and regional fisheries management organizations reported on the provision of catch and effort data and fishery-related information in a timely way and the strengthening of data collection and reporting, which was clearly a problem area. Strengthening compliance by members of regional fisheries management organizations remained a significant concern, and efforts to improve relevant activities were increasing, including activities to determine the accuracy of information, ensure submission in the proper format, agree on protocols, rules and interim voluntary standards, study data gaps and their causes and provide assistance to developing States (paragraph 192).

There were some developments by regional fisheries management organizations in relation to the recommendation for regular audits of compliance by members with reporting and information obligations. The SPRFMO Convention provides for audits of compliance by members with data collection and exchange requirements, and WCPFC has established a data audit facility on its website that provides a public domain report for compliance with data reporting obligations by members. This could be an important area of focus, as many respondents and the findings of performance reviews have identified compliance with data requirements as in need of significant improvement (paragraph 193).

Cooperate with FAO in the implementation and further development of the Fisheries Resources Monitoring System initiative (recommendation 18 (j))

States and regional fisheries management organizations took action to cooperate with FAO in the implementation and development of FIRMS, and FAO continued its work on FIRMS, in support of the implementation of the recommendations adopted by the Review Conference (paragraph 194).

Commit themselves to submitting, on a priority basis, information on deep-sea fish catches, as requested by the twenty-sixth session of the FAO

Committee on Fisheries, and contribute to the work of FAO to collect and collate information concerning past and present deep-water fishing activities and to undertake an inventory of deep-water stocks and an assessment of the effects of fishing on deep-water fish populations and their ecosystems (recommendation 18 (k))

Several States reported submitting information to FAO on deep-sea fishing activities, and regional fisheries management organizations and arrangements were cooperating with FAO in the exchange of relevant data. Detailed information was not available on current activities to undertake an inventory of deep-water stocks and an assessment of the effects of fishing on deep-water fish populations and their ecosystems (paragraph 192).

FAO has supported implementation of the recommendations adopted by the Review Conference through its work on deep-water fishing activities (paragraph 194).

B. Recommendations for FAO

FAO should (a) establish arrangements for the collection and dissemination of data in accordance with article 7 of annex I to the Agreement, where none exist; and (b) revise its global fisheries statistics database to provide information for the stocks to which the Agreement applies and for high-seas discrete stocks on the basis of where the catch was taken (recommendation 19)

FAO has supported implementation of the recommendations adopted by the Review Conference by encouraging data arrangements and proposing an infrastructure for a global fisheries statistics database based on information, inter alia, from regional fisheries management organizations. An objective of the latter, which was to integrate global catch statistics with catch location of higher resolution, would be a significant asset in evaluating the implementation of the Agreement. However, given the difficulties already experienced by several regional fisheries management organizations in the collection of data and the recommendation of the Review Conference for audits of data submissions, further actions and measures may be needed to ensure that States provide data to regional fisheries management organizations in a timely, accurate and effective manner in order to enhance information at the global level (paragraph 194).

C. Conclusion

States and regional fisheries management organizations have taken significant actions to implement the recommendations adopted by the Review Conference in 2006. In the conservation and management of fishery resources, progress has included the implementation of the precautionary and ecosystem approaches, the use or development of management tools and reduction of excess fishing capacity. Further efforts are needed regarding the development of measures on deep-sea fisheries, subsidies, discards and derelict gear, data collection and strengthened compliance by members of regional fisheries management organizations and arrangements, including audits of compliance by members with reporting and information obligations (paragraph 459).

II. Mechanisms for international cooperation and non-members

A. Recommendations for actions to be taken by States individually and collectively through regional fisheries management organizations

Strengthen mandates and measures in regional fisheries management organizations and arrangements

Continue on an urgent basis to strengthen the mandates of, and measures adopted by, regional fisheries management organizations to implement modern approaches to fisheries management as reflected in the Agreement and other relevant international instruments, including relying on the best scientific information available and application of the precautionary approach, and incorporating an ecosystem approach into fisheries management (recommendation 32 (a))

Several States have been involved in efforts to strengthen the mandates and measures of regional fisheries management organizations, including through performance reviews and the implementation of best practices (paragraph 295).

Urge those regional fisheries management organizations of which they are members to undergo performance reviews on an urgent basis, whether initiated by the organizations themselves or with external partners; encourage the inclusion of some element of independent evaluation in such reviews; and ensure that the results are made publicly available. The reviews should use transparent criteria based on the Agreement and other relevant instruments, including best practices of regional fisheries management organizations (recommendation 32 (j))

The completion of performance reviews of five regional fisheries management organizations since the Review Conference in 2006, and plans for six additional performance reviews have highlighted global determination to move forward on this process. Performance reviews conducted to date have included some element of independent evaluation, and the results have been made publicly available and have used transparent criteria, as recommended by the Review Conference (paragraph 295).[a]

Cooperate to develop best practice guidelines for regional fisheries management organizations and apply, to the extent possible, those guidelines to organizations in which they participate (recommendation 32 (k))

Many performance reviews have also referred to the use of best practice guidelines; however, the application of such guidelines, in general, has not been addressed (paragraph 295).

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[a] Also see paras. 296-299.

Strengthen and enhance cooperation among regional fisheries management organizations and arrangements

Strengthen and enhance cooperation among existing and developing regional organizations, including increased communication and further coordination of measures, and, following the example of regional organizations that regulate highly migratory fish stocks and the regional tuna meeting that will be hosted by Japan in 2007, agree to hold consultations of States members of regional fisheries management organizations that regulate straddling fish stocks to exchange views on key issues (recommendation 32 (b))

There has been increased cooperation among existing and developing regional fisheries management organizations at many levels, including through the joint meetings of the tuna regional fisheries management organizations and cooperation among secretariats of some organizations on a species and geographical basis. The use of formal cooperation mechanisms such as memorandums of understanding has increased although, in general, the priorities and effectiveness of such cooperation has not been elaborated (paragraph 300).

Promote participation in regional fisheries management organizations and arrangements

Address participatory rights through, inter alia, the development of transparent criteria for allocating fishing opportunities, taking due account, inter alia, of the status of the relevant stocks and the interests of all those with a real interest in the fishery (recommendation 32 (c))

Several States reported on progress in developing mechanisms to encourage States to participate in regional fisheries management organizations and arrangements, including the development of transparent allocation criteria in regional fisheries management organizations to address participatory rights. However, further efforts were needed to agree on and apply such criteria. Except for the adoption of specific allocation criteria and guidelines by regional fisheries management organizations, there were no clear trends in this regard. The focus of efforts has been on members and cooperating non-members, and no reports were made of efforts to take into account the interests of all those with a "real interest" in the fishery (paragraph 301).

Recalling that only those States which are members of regional fisheries management organizations, or which agree to apply the conservation and management measures established by them, shall have access to the fishery resources to which those measures apply, establish mechanisms to promote the participation of non-members fishing in the area of competence of a regional organization to either join the organization or agree to apply the conservation and management measures established by it (recommendation 32 (d))

Commit themselves to providing incentives, where needed, to encourage non-members to join the regional fisheries management organizations, including sharing technology and expertise, assistance in the development of appropriate frameworks, and enhancement of enforcement capabilities. Non-members shall enjoy benefits from participation in the fishery commensurate with their commitment to comply with conservation and management measures in respect of the stocks (recommendation 32 (e))

Although some States reported on individual efforts to encourage the participation of non-members in regional fisheries management organizations and arrangements, there were no reports of a systematic approach to establishing mechanisms to promote such participation of non-members. Many regional fisheries management organizations reported on measures that had been in place for several years to encourage participation by non-members, with some notable successes. A range of different incentives and disincentives have been adopted, but responding regional fisheries management organizations and States generally did not report on the specific incentives recommended by the Review Conference, or on benefits that non-members would enjoy commensurate with their commitment to comply with conservation and management measures (paragraph 302).

Improve decision-making rules and procedures in regional fisheries management organizations and arrangements

Ensure that post opt-out behaviour is constrained by rules to prevent opting-out parties from undermining conservation, clear processes for dispute resolution, and a description of alternative measures that will be implemented in the interim (recommendation 32 (f))

Improve the transparency of regional fisheries management organizations, both in terms of decision-making that incorporates the precautionary approach and the best scientific information available and by providing reasonable participation for intergovernmental and non-governmental organizations through the organizations' rules and procedures (recommendation 32 (g))

Most responding States and regional fisheries management organizations have taken action to improve the transparency of regional fisheries management organizations in terms of decision-making processes and the reasonable participation of intergovernmental and non-governmental organizations. In particular, restrictions on States from opting out of decisions, combined with dispute settlement and other mechanisms to prevent opting-out, have been adopted in the context of the renegotiation of constitutive instruments or the establishment of new regional fisheries management organizations. These developments have underscored the need for strengthened decision-making processes for more effective implementation of conservation and management measures (paragraph 303).

Improve effective control by flag States

Cooperate to examine and clarify the role of the "genuine link" in relation to the duty of flag States to exercise effective control over fishing vessels flying their flag (recommendation 32 (h))

Many States and regional fisheries management organizations have made efforts to improve effective control by flag States over vessels flying their flag, as opposed to an examination of the role of the "genuine link", which is not clearly defined. States have supported cooperation in the work of FAO on flag State performance, and have reported national mechanisms to ensure effective control. Some regional fisheries management organizations have taken action to have this duty of flag States implemented in their convention areas, and the issue has been the subject of the performance review process. While some progress has been made, further efforts are needed in support of relevant FAO activities, such as identifying

criteria for flag State performance and actions to be taken when criteria have not been met (paragraph 304).

Enhance the development of fisheries of developing States

Take concrete measures to enhance the ability of developing States to develop their fisheries for straddling fish stocks and highly migratory fish stocks, including facilitating access to such fisheries, consistent with article 25 of the Agreement (recommendation 32 (i))

Several States have taken measures to enhance the ability of developing States to develop their fisheries, using a range of traditional means such as financial contributions and technical assistance. A few regional fisheries management organizations have taken some steps to facilitate such assistance through the establishment of funds or other mechanisms. In some cases, the relevant constitutive instrument has also referred to such measures. There have been no specific cases reported of the provision of assistance through facilitating access to fisheries, consistent with article 25 of the Agreement, or on the outcomes or successes of applicable measures (paragraph 305).

B. Conclusion

Considerable efforts have been made to strengthen the mandates and conservation and management measures of regional fisheries management organizations and arrangements, including through performance reviews, and progress has been made in the establishment of new organizations and arrangements and in strengthening cooperation among, and promoting transparency in, existing and developing organizations and arrangements. Additional efforts are needed to ensure that members and cooperating non-members support relevant actions and measures of regional fisheries management organizations and arrangements, and for effective decision-making (paragraph 460).

III. Monitoring, control and surveillance and compliance and enforcement

A. Recommendations for actions to be taken by States individually and collectively through regional fisheries management organizations

Strengthen effective control over vessels

Strengthen effective control over vessels flying their flag and ensure that such vessels comply with, and do not undermine, conservation and management measures adopted by regional fisheries management organizations (recommendation 43 (a))

Most States reported on legislative mechanisms and other monitoring, control and surveillance tools used to strengthen effective control over vessels flying their flag, but there was generally no clear indication of the measures that had been introduced since the Review Conference. Several responding States referred to

national licensing requirements for vessels operating on the high seas, but few examples were given of controlling the activities of nationals in areas beyond national jurisdiction. Only a few States provided information on measures to prohibit nationals and vessels from engaging in unauthorized fishing in areas under the national jurisdiction of other States (paragraph 403).

All States supported compliance with conservation and management measures adopted by regional fisheries management organizations and arrangements and identified specific measures of such organizations and arrangements to strengthen control over vessels on the high seas, but without assessing their strengths or weaknesses. In turn, some regional fisheries management organizations referred to their actions to support strengthened compliance by their members with conservation and management measures (paragraph 404).

Strengthen, consistent with national law, domestic mechanisms to deter nationals and beneficial owners from engaging in illegal, unregulated and unreported fishing activities and facilitate mutual assistance to ensure that such actions can be investigated and proper sanctions imposed (recommendation 43 (j))

Ensure that all vessels fishing on the high seas carry vessel monitoring systems as soon as practicable (recommendation 43 (n))

A range of requirements for vessel monitoring systems and other monitoring, control and surveillance tools was reported by States, including strong administrative and judicial processes and deterrent fines and penalties. Some regional fisheries management organizations have encouraged States to strengthen and harmonize the latter, and regional fisheries management organizations emphasized the progress made in adopting and implementing vessel monitoring system schemes and requirements (paragraph 405).

Assess flag State performance

Develop appropriate processes to assess flag States' performance with respect to implementing the obligations regarding fishing vessels flying their flag set out in the Agreement and other relevant international instruments; and consider the use of multilaterally agreed trade measures, consistent with the rules established by the World Trade Organization, to promote implementation of those obligations by flag States (recommendation 43 (g))

There was a strong focus on new initiatives, particularly at international and regional levels, to assess and improve flag State performance and adopt port State measures, in particular, the FAO Expert Consultation on Flag State Performance and the European Community regulation on illegal, unreported and unregulated fishing. Some regional fisheries management organizations and arrangements reported on their processes to assess flag State performance, including by consideration of trade sanctions. The 2008 initiative of WCPFC to establish a mechanism to monitor and report on compliance with conservation and management measures could serve as a positive example for other regional fisheries management organizations (paragraph 406).

Develop regional guidelines for fisheries sanctions to be applied by flag States so that flag States may evaluate their systems of sanctions to ensure that they are effective in securing compliance and deterring violations (recommendation 43 (h))

The development of regional guidelines for flag States to evaluate their systems of sanctions was generally still under preliminary — and limited — consideration, and was an area for further review, taking into account the development of criteria for flag State performance in the proposed FAO technical consultation (paragraph 406).

Adopt port State measures

Adopt all necessary port State measures, consistent with article 23 of the Agreement, particularly those envisioned in the 2005 FAO Model Scheme on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing, and promote minimum standards at the regional level; and in parallel, initiate, as soon as possible, a process within FAO to develop, as appropriate, a legally binding instrument on minimum standards for port State measures, building on the FAO Model Scheme and the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (recommendation 43 (d))

The adoption of the Port State Measures Agreement was a culmination of broad-based cooperation by the international community to identify minimum standards, and was expected to provide a catalyst for future efforts by States and regional fisheries management organizations and arrangements to exchange information on illegal, unreported and unregulated fishing operations and harmonize actions and measures. Some regional fisheries management organizations and arrangements have begun to incorporate the standards in their regional schemes, while others have been awaiting the outcome of the FAO process. States reported on measures that have been taken at the national level (paragraph 407).

Strengthen compliance and enforcement schemes in regional fisheries management organizations and arrangements

Adopt, strengthen and implement compliance and enforcement schemes in all regional fisheries management organizations; enhance or develop mechanisms to coordinate monitoring, control and surveillance measures, including those directed at non-members, between regional fisheries management organizations and with relevant market States; and ensure the fullest possible exchange of monitoring, control and surveillance information related to illegal, unregulated and unreported fishing activities. Global information exchange efforts should be enhanced (recommendation 43 (b))

Most States responded that the regional fisheries management organizations in which they were members had adopted compliance and enforcement schemes and they welcomed the expanding cooperation among tuna regional fisheries management organizations and other regional fisheries management organizations. There was a reciprocal interface between regional and national levels through the initiation of compliance and enforcement measures; some notable contributions by States were reported to improve regional cooperation by pioneering compliance measures at national level, such as establishing an IUU vessel list and bringing the

initiative to regional fisheries management organizations. Conversely, a number of States reported on their actions to implement regional schemes (paragraph 408).

Some regional fisheries management organizations and arrangements emphasized their recent actions to develop and implement a regional monitoring, control and surveillance scheme or strategy and to cooperate with other organizations and arrangements, while others referred to strengthened schemes and the integration of compliance tools. There appeared to be widespread activity across regional fisheries management organizations and arrangements in this regard, but its actual impact on compliance was not addressed (paragraph 409).

Recognize the role of alternative mechanisms for compliance and enforcement in regional fisheries management organizations and arrangements

Recognize that the development within regional fisheries management organizations of alternative mechanisms for compliance and enforcement in accordance with article 21, paragraph 15, of the Agreement, including other elements of a comprehensive monitoring, control and surveillance regime that effectively ensures compliance with the conservation and management measures adopted by the regional fisheries management organization, could facilitate accession to the Agreement by some States (recommendation 43 (o))

Most respondents did not address the development of alternative mechanisms within regional fisheries management organizations for compliance and enforcement that could facilitate accession to the Agreement. There were some differing views on the meaning of alternative mechanisms and whether it included high seas boarding and inspection (paragraph 410).

Regulate trans-shipment, supply and refuelling vessels

Adopt stringent measures to regulate trans-shipment, in particular at-sea trans-shipment; and in parallel, encourage and support FAO in studying the current practices of trans-shipment as it relates to fishing operations for straddling fish stocks and highly migratory fish stocks and produce a set of guidelines for this purpose (recommendation 43 (c))

Several States reported on the adoption of measures to regulate trans-shipment, in particular at-sea trans-shipment, and many States supported measures by regional fisheries management organizations. No respondents addressed the work of FAO in studying the current practices of trans-shipment as it related to fishing operations and the production of a set of guidelines for this purpose. Several regional fisheries management organizations reported on their increasingly stringent measures and monitoring programmes in relation to trans-shipment practices, including by carrier vessels. The inclusion of trans-shipment vessels on illegal, unreported and unregulated fishing vessel lists had proved very effective. This has clearly been an area of widespread focus, including under memorandums of understanding among some regional fisheries management organizations (paragraph 411).

Develop measures to prohibit supply and refuelling vessels flying their flag from engaging in operations with vessels listed as engaging in illegal, unregulated or unreported fishing (recommendation 43 (m))

Few responding States have taken measures to prohibit the supply and refuelling of vessels on negative lists of regional fisheries management

organizations; however, one regional fisheries body referred to national prohibitions by its members in this regard. One practical challenge was to ensure that current information on negative vessel lists was provided to relevant supply and refuelling vessels (paragraph 412).

Strengthen fisheries access agreements

Strengthen fisheries access agreements to include assistance for monitoring, control and surveillance and compliance and enforcement within the areas under the national jurisdiction of the coastal State providing fisheries access (recommendation 43 (f))

A few States reported on initiatives to strengthen fisheries access agreements as a mechanism for assistance in monitoring, control and surveillance, compliance and enforcement. The examples, provided mostly by developed States, demonstrated the potential benefits of this approach to assistance (paragraph 413).

Adopt market-related measures

Take necessary measures, consistent with international law, to ensure that only fish that have been taken in accordance with applicable conservation and management measures reach their markets, and take steps consistent with national and international law to require those involved in fish trade to cooperate fully to this end; at the same time, recognize the importance of market access, in accordance with provisions 11.2.4, 11.2.5 and 11.2.6 of the Code of Conduct for Responsible Fisheries, for fishery products and fish caught in a manner that is in conformity with the applicable conservation and management measures (recommendation 43 (i))

Several States reported on the implementation of market-related measures, in particular measures adopted by regional fisheries management organizations. Import regulations and improved technology were playing an increasingly significant role in ensuring that only legally caught fish entered States. Requirements for the confirmation of the legality of a catch prior to its import were appearing at all levels. The expanding use of electronic systems, such as the United States international trade data system, could be effective in verifying sources of seafood products being offered for entry into States and assist in combating illegal, unreported and unregulated fishing. Regional fisheries management organizations had taken a number of market-based measures, but did not address the recommendation to take steps to require those involved in the fish trade to cooperate fully or the importance of market access for legally caught fish (paragraph 414).

Participate in the International Monitoring, Control and Surveillance Network

Join and actively participate in the International Monitoring, Control and Surveillance Network for Fisheries-related Activities, where they have not already done so, and support the enhancement of the Network (recommendation 43 (e))

Some States reported that they had joined the International Monitoring, Control and Surveillance Network for Fisheries-related Activities and supported its enhancement. The Network was encouraged to produce tangible outcomes and share information and practices that would support fisheries management (paragraph 415).

Promote the FAO Compliance Agreement and develop a global record of fishing vessels

Promote universal acceptance of the FAO Compliance Agreement (recommendation 43 (k))

Although promotion of universal acceptance of the FAO Compliance Agreement was not generally reported, some States referred in general to long-standing actions they had taken to implement the Compliance Agreement. Some regional fisheries management organizations and arrangements also referred to the fact that the underlying principles of the Compliance Agreement formed a basis for their conservation and management measures (paragraph 416).

Cooperate with FAO to develop a comprehensive global register of fishing vessels, including refrigerated transport and supply vessels, that incorporates all available information on beneficial ownership, subject to confidentiality requirements in accordance with national law (recommendation 43 (l))

The development of a comprehensive FAO global record of fishing vessels was still in its early stages, but was regarded as a useful initiative. Several tuna regional fisheries management organizations described their cooperative processes to develop unique vessel identifiers and a global record for tuna vessels. It was noted that legal underpinning would be needed at the national level (paragraph 416).

B. Conclusion

Regional fisheries management organizations have increased efforts to develop and implement regional monitoring, control and surveillance schemes, including through expanded cooperation among regional fisheries management organizations. However, further progress is needed by States to control their nationals and vessels in areas beyond national jurisdiction. Current efforts to improve flag State performance are much welcomed. The adoption of the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing represents a significant development in combating illegal, unreported and unregulated fishing (paragraph 461).

IV. Developing States and non-parties

A. Recommendations for States

Promote wider participation in the Agreement

Urge all States with an interest in fisheries for straddling fish stocks and highly migratory fish stocks that have not yet done so to become parties to the Agreement as soon as possible and disseminate information about the Agreement, including its objective and the rights and duties it provides (recommendation 55 (e))

States have actively encouraged other States to become parties to the Agreement through bilateral cooperation, regional fisheries management organizations and arrangements, informal consultations of States Parties, the General Assembly, the FAO Committee on Fisheries and other international

meetings. The Assistance Fund established under Part VII of the Agreement was highlighted as an incentive to developing countries to become parties to the Agreement (paragraph 420).

Exchange ideas on ways to promote further ratification and accession to the Agreement through a continuing dialogue to address concerns raised by some non-parties regarding, in particular, articles 4, 7, 21, 22 and 23 of the Agreement (recommendation 55 (f))

The Review Conference considered increased adherence by developing States and States non-Parties to the Agreement to be vital to promoting full implementation of the Agreement and achieving its objective. It was clear that enhanced assistance to developing States was necessary to enable such States to fully implement the Agreement. The continuing dialogue to promote wider participation in the Agreement was an important process, contributing to a deeper understanding of perspectives that affect promotion of a wider participation in the Agreement (paragraph 454).

Enhance the participation of developing States in regional fisheries management organizations and arrangements

Enhance the participation of developing States in regional fisheries management organizations, including through facilitating access to fisheries for straddling fish stocks and highly migratory fish stocks, in accordance with article 25, paragraph 1 (b), of the Agreement, taking into account the need to ensure that such access benefits the States concerned and their nationals (recommendation 55 (b))

Some States have made efforts to enhance the participation of developing States in regional fisheries management organizations. Regional fisheries management organizations reported on a variety of approaches to enhance participation by developing States, including through facilitating access to straddling and highly migratory fish stocks. Such measures included a policy on cooperation, granting an allocation of the global total allowable catch to cooperating non-members, capacity-building, establishment of funds for capacity-building and participation in meetings, and through conservation and management measures. The different approaches may reflect the needs of a particular region, but it was not possible to confirm this or to assess the effectiveness of each mechanism on the basis of available information (paragraphs 455 and 456).

Cooperate with and assist developing States

Cooperate with and assist developing States in designing and strengthening their domestic regulatory fisheries policies and those of regional fisheries management organizations in their regions (recommendation 55 (c))

Promote coherence in the provision of such assistance and cooperation, both by individual Governments and through international mechanisms (recommendation 55 (d))

Assistance has been provided for improving regulatory mechanisms and drafting new fisheries legislation, taking into account the fundamental principles of the Agreement, and developing States have welcomed the assistance that has been provided (paragraph 455).

Some respondents provided information elaborating on the current capacity-building needs of developing States, which covered a wide range of areas (paragraph 457).

Contribute to capacity-building mechanisms and programmes, including the Part VII Assistance Fund

Urgently contribute, where they have not yet done so, to the Part VII fund or to other mechanisms to assist developing States in the conservation and management of straddling fish stocks and highly migratory fish stocks. Such assistance should be targeted to such areas as (i) stock assessment and scientific research; (ii) data collection and reporting; (iii) monitoring, control and surveillance; (iv) port State control; (v) compliance with market and trade-related measures and meeting market access requirements, including with respect to health and quality standards; (vi) development of fisheries for straddling fish stocks and highly migratory fish stocks; (vii) human resource development; and (viii) the sharing of information, including vessel information (recommendation 55 (a))

Several developed States reported that they had made contributions to the Part VII Assistance Fund. Substantial donor activity through bilateral and multilateral mechanisms, including technical assistance, was reported for a range of fisheries management-related activities. No information was provided concerning some of the forms of assistance recommended by the Review Conference, including assistance for port State control, compliance with market and trade-related measures, meeting market requirements and the sharing of vessel information (paragraph 455).

Some respondents identified capacity-building mechanisms and programmes available to developing States for assistance in implementing the Agreement as well as for general fisheries needs (paragraph 457).

B. Recommendations for FAO and the Division for Ocean Affairs and the Law of the Sea

FAO and the Division for Ocean Affairs and the Law of the Sea should (a) further publicize the availability of assistance through the Part VII fund; and (b) solicit views from developing States parties regarding the application and award procedures of the Part VII fund, and consider changes where necessary to improve the process (recommendation 56)

Both FAO and the Division for Ocean Affairs and the Law of the Sea have made significant efforts to further publicize the availability of assistance through the Part VII Assistance Fund and to strengthen the effectiveness of this mechanism (paragraph 457).

C. Recommendations for actions to be taken by States collectively through regional fisheries management organizations

The Review Conference agreed to recommend that States collectively through regional fisheries management organizations establish a link to the Part VII fund home page on their organization's website (recommendation 57)

A number of regional fisheries management organizations reported that their websites have established a link to the Part VII Assistance Fund home page, and a link also appears on the website established by the tuna regional fisheries management organizations (paragraph 445).

D. Conclusion

Efforts by States and regional fisheries management organizations to promote wider participation in the Agreement, in order to achieve the goal of universal participation, should be commended. It has been noted that since the suspension of the Review Conference in 2006, 20 more States have become parties to the Agreement (paragraph 463).

Increased assistance should be provided to developing States, including through the Part VII Assistance Fund, to enhance their capacity to conserve and manage straddling fish stocks and highly migratory fish stocks in areas under their national jurisdiction and to enable their participation in high seas fisheries for these stocks (paragraph 462).